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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 4072**

(By Delegates Swartzmiller, Stemple, Shaver, Renner,  
Long, Perry and Tabb)



Passed March 13, 2004

In Effect July 1, 2004

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## H. B. 4072

(BY DELEGATES SWARTZMILLER, STEMPLE, SHAVER,  
RENNER, LONG, PERRY AND TABB)

[Passed March 13, 2004; in effect July 1, 2004.]

AN ACT to amend and reenact §18-2E-7 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7, all relating to an education technology strategic plan for public education and higher education; including basic skills and SUCCESS in plan; findings; intent, purpose and goals; education technology strategic plan advisory committee; strategies to be included in plan; state board of education and higher education policy commission approval and adoption; expenditures in accordance with the plan; and the report to the legislative oversight commission on education accountability and joint committee on government and finance.

*Be it enacted by the Legislature of West Virginia:*

That §18-2E-7 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new article, designated §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7, all to read as follows:

**ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

**§18-2E-7. Providing for high quality basic skills development and remediation in all public schools.**

1           (a) The Legislature finds that teachers must be provided the  
2 support, assistance and teaching tools necessary to meet  
3 individual student instructional needs on a daily basis in a  
4 classroom of students who differ in learning styles, learning  
5 rates and in motivation to learn. The Legislature further finds  
6 that attaining a solid foundation in the basic skills of reading,  
7 composition and arithmetic is essential for advancement in  
8 higher education, occupational and avocational pursuits and that  
9 computers are an effective tool for the teacher in corrective,  
10 remedial and enrichment activities. Therefore, the state board  
11 shall ensure that the resources to be used to provide services to  
12 students in the earliest grade level and higher grade levels as  
13 resources become available are included in the education  
14 technology strategic plan required by article two-j of this  
15 chapter. The provision of services to students shall be based on  
16 a plan developed by each individual school team.

17           Computer hardware and software shall be purchased in  
18 accordance with the education technology strategic plan  
19 adopted pursuant to article two-j of this chapter.

20           The state board shall develop and provide a program to  
21 ensure adequate teacher training, continuous teacher support  
22 and updates. The program shall be consistent with the education  
23 technology strategic plan adopted pursuant to article two-j of  
24 this chapter.

25 To the extent practicable, the technology shall be used to  
26 enhance student access to learning tools and resources outside  
27 of the normal school day, such as: Before and after school; in  
28 the evenings, on weekends and during vacations; and for  
29 student use for homework, remedial work, independent learn-  
30 ing, career planning and adult basic education.

31 (b) The Legislature finds that the continued implementation  
32 of computer use under this section for high quality basic skills  
33 development and remediation in the middle schools, junior high  
34 schools and high schools is necessary to meet the goal that high  
35 school graduates will be prepared fully for college, other post-  
36 secondary education or gainful employment. Further, the  
37 implementation should provide a technology infrastructure at  
38 the middle schools, junior high schools and high schools  
39 capable of supporting multiple technology based learning  
40 strategies designed to enable students to achieve at higher  
41 academic levels. The technology infrastructure should facilitate  
42 student development in the following areas:

43 (1) Attaining basic computer skills such as word process-  
44 ing, spreadsheets, data bases, internet usage, telecommunica-  
45 tions and graphic presentations;

46 (2) Learning critical thinking and decision-making skills;

47 (3) Applying academic knowledge in real life situations  
48 through simulated workplace programs;

49 (4) Understanding the modern workplace environment,  
50 particularly in remote areas of the state, by bringing the  
51 workplace to the school;

52 (5) Making informed career decisions based upon informa-  
53 tion on labor markets and the skills required for success in  
54 various occupations;

55 (6) Gaining access to labor markets and job placement;

56 (7) Obtaining information and assistance about college and  
57 other post-secondary education opportunities and financial aid;  
58 and

59 (8) Other uses for acquiring the necessary skills and  
60 information to make a smooth transition from high school to  
61 college, other post-secondary education or gainful employment.

62 Therefore, the state board also shall address the findings of  
63 this subsection regarding the continued implementation of  
64 computer hardware and software and technical planning support  
65 in the middle schools, junior high schools and high schools of  
66 the state in the education technology strategic plan required by  
67 article two-j of this chapter.

**ARTICLE 2J. PUBLIC AND HIGHER EDUCATION TECHNOLOGY STRATEGIC PLAN.**

**§18-2J-1. Findings.**

1 (a) The Legislature finds that:

2 (1) Technology is being used in public schools as an  
3 instructional tool that enables teachers to meet the individual  
4 instructional needs of students who differ in learning styles,  
5 learning rates and the motivation to learn;

6 (2) Technology is being used in public schools as an  
7 effective resource for providing corrective, remedial and  
8 enrichment activities to help students achieve proficiency at  
9 grade level or above in the basic skills of reading, composition  
10 and arithmetic that are essential for advancement to more  
11 rigorous curriculum and success in higher education, occupa-  
12 tional and avocational pursuits;

13       (3) Technology is being used in public schools to ensure  
14 that all students have a basic level of computer literacy that will  
15 enable them to participate fully in a society in which computers  
16 are an ever more prevalent medium for social, economic, and  
17 informational interaction;

18       (4) Technology is being used in public schools to provide  
19 greater access for students to advanced curricular offerings,  
20 virtual field trips, problem solving and team building exercises,  
21 reference information and source knowledge than could be  
22 provided efficiently through traditional on-site delivery  
23 formats;

24       (5) Technology is being used in public schools to help  
25 students obtain information on post-secondary educational  
26 opportunities, financial aid, and the credentials and skills  
27 required in various occupations that will help them better  
28 prepare for a successful transition following high school;

29       (6) Technology is being used in public schools to help  
30 students learn to think critically, apply academic knowledge in  
31 real life situations, make decisions, and gain an understanding  
32 of the modern workplace environment through simulated  
33 workplace programs;

34       (7) Technology is being used in public schools as a resource  
35 for teachers by providing them with access to sample lesson  
36 plans, curriculum resources, on-line staff development, continu-  
37 ing education and college course-work;

38       (8) Technology is being used in public schools as a tool for  
39 managing information, reporting on measures of accountability,  
40 analyzing student learning and helping to improve student,  
41 school and school system performance;

42 (9) Technology is being used in state institutions of higher  
43 education for teaching, learning and research for all students  
44 across all disciplines and programs;

45 (10) Technology is being used in state institutions of higher  
46 education by students, staff and faculty to discover, create,  
47 communicate and collaborate, as well as to enhance research  
48 and economic development activities;

49 (11) Technology is being used in state institutions of higher  
50 education for digital age literacy, problem solving, creativity,  
51 effective communication, collaboration and high productivity  
52 skills essential for West Virginia citizens in a rapidly changing  
53 global economy;

54 (12) Technology is being used by libraries in higher  
55 education to offer reference services in a virtual environment  
56 online;

57 (13) Technology is being used by libraries in higher  
58 education to create and share cataloging records. It is possible  
59 to create a seamless resource for sharing these resources  
60 between public and higher education; and

61 (14) Technology is being used in libraries in higher  
62 education to offer electronic document delivery services to  
63 distance education students and to a multitude of professionals  
64 throughout the state.

65 (b) Each use of technology set forth in this section shall  
66 apply to public education, higher education or both, as appro-  
67 priate. The determination of whether the use of technology  
68 applies to public education, higher education or both shall be  
69 made by the education technology strategic plan advisory  
70 committee, the state board and the higher education policy  
71 commission.

**§18-2J-2. Intent and purpose; goals.**

1 (a) The intent and purpose of this article is to establish a  
2 unified approach to the administration and allocation of funds  
3 for technology that is used for public education and higher  
4 education purposes in this state which meets the following  
5 goals:

6 (1) Maintaining a reasonable balance in the resources  
7 allocated among the customary diverse uses of technology in  
8 the public schools and the state institutions of higher education,  
9 while allowing flexibility to address unanticipated priority  
10 needs and unusual local circumstances;

11 (2) Providing for uniformity in technological hardware and  
12 software standards and procedures to achieve interoperability  
13 between public schools and higher education to the extent that  
14 the uniformity is considered prudent for reducing acquisition  
15 cost, avoiding duplication, promoting expeditious repair and  
16 maintenance and facilitating user training, while allowing  
17 flexibility for local innovations and options when the objectives  
18 relating to uniformity are reasonably met;

19 (3) Preserving the integrity of governance, administration,  
20 standards and accountability for technology in the public  
21 schools and institutions of higher education under the jurisdic-  
22 tion of the state board and the higher education policy commis-  
23 sion, while encouraging collaborative service delivery and  
24 infrastructure investments with other entities that will reduce  
25 cost, avoid duplication or improve services, particularly with  
26 respect to other entities such as the educational broadcasting  
27 system, public libraries and other governmental agencies with  
28 compatible technology interests;

29 (4) Improving the long-term ability of the state board and  
30 the higher education policy commission to efficiently manage



31 and direct the resources available for technology in the public  
32 schools and the institutions of higher education concurrent with  
33 evolving technological capabilities and applications;

34 (5) Fostering closer communication between faculty,  
35 students and administrators;

36 (6) Providing for individualized instruction, accommodat-  
37 ing a variety of learning styles of students or faculty members;

38 (7) Advancing new and traditional ways of learning through  
39 alternative approaches in curriculum to integrate education,  
40 research and technology into life long learning strategies;

41 (8) Offering new approaches to administration and account-  
42 ability within the education system through technology applica-  
43 tion;

44 (9) Promoting the collaboration of schools, libraries,  
45 researchers, community members, state agencies, organizations,  
46 business and industry, post-secondary institutions and public  
47 virtual learning environments to meet the needs of all learners;

48 (10) Recognizing that information literacy is a fundamental  
49 competency for life-long learning and information literacy is  
50 incorporated into the curricula of higher education and the  
51 workplace;

52 (11) Creating the appropriate infrastructure to ensure, as  
53 required, a sustainable, cost effective and transparent migration  
54 to new technology platforms;

55 (12) Creating and maintaining compatible and secure  
56 technology systems that enhance the efficient operation of all  
57 educational systems;

58 (13) Assessing, evaluating and publicizing the effects of  
59 technology use by educators and students toward student  
60 learning and achievement; and

61 (14) Increasing student access to high quality blended  
62 distance learning curriculum using real time interactive and  
63 online distance education tools.

64 (b) Each goal set forth in this section shall apply to public  
65 education, higher education or both, as appropriate. The  
66 determination of whether a goal applies to public education,  
67 higher education or both shall be made by the education  
68 technology strategic plan advisory committee, the state board  
69 and the higher education policy commission.

**§18-2J-3. Education technology strategic plan advisory committee.**

1 (a) On or before the first day of July, two thousand four,  
2 there is established an education technology strategic plan  
3 advisory committee to be composed of sixteen members. The  
4 Governor shall appoint, by and with the advice and consent of  
5 the Senate, the following eleven voting members to the advisory  
6 committee:

7 (1) Five voting members representing public education  
8 some or all of which may be from a list of five recommended  
9 appointees which shall be submitted by the state board;

10 (2) Five voting members representing higher education  
11 some or all of which may be from a list of five recommended  
12 appointees which shall be submitted by the higher education  
13 policy commission; and

14 (3) One voting member who is a business representative  
15 with knowledge of technology management practices of large

16 corporations and has contributed and advanced technology in  
17 education in West Virginia.

18 (b) The chief technology officer of Marshall university, or  
19 a designee, and the chief technology officer of West Virginia  
20 university, or a designee, shall be ex officio nonvoting members  
21 of the advisory committee. The state superintendent shall  
22 designate two positions within the department of education, and  
23 the persons employed in those position shall be ex officio  
24 nonvoting members of the advisory committee. Additionally,  
25 the West Virginia library commissioner shall be an ex officio  
26 nonvoting member.

27 (c) The business representative shall serve as chair of the  
28 advisory committee. The advisory committee shall meet as  
29 necessary, but shall hold no less than four meetings annually.  
30 A majority of the voting members constitutes a quorum for  
31 conducting the business of the advisory committee.

32 (d) Voting members of the advisory committee shall serve  
33 for terms of three years, except that of the original appoint-  
34 ments, three members shall be appointed for one year; four  
35 members shall be appointed for two years; and four members  
36 shall be appointed for three years. No member may serve more  
37 than two consecutive full terms nor may any member be  
38 appointed to a term which results in the member serving more  
39 than six consecutive years.

40 (e) Members of the advisory committee shall serve without  
41 compensation, but shall be reimbursed by the Governor for all  
42 reasonable and necessary expenses actually incurred in the  
43 performance of their official duties under this article upon  
44 presentation of an itemized sworn statement of their expenses,  
45 except that any member of the advisory committee who is an  
46 employee of the state shall be reimbursed by the employing  
47 agency.

**§18-2J-4. Education technology strategic plan.**

1 (a) The education technology strategic plan advisory  
2 committee shall develop an education technology strategic plan  
3 that achieves the intent and purpose of this article. The plan  
4 shall be a continuing plan that covers a period of not less than  
5 three and not more than five years and is updated annually. In  
6 addition to other strategies considered necessary for achieving  
7 the intent and purpose of this section, the education technology  
8 strategic plan shall address the following:

9 (1) The strategy for using technology in the public schools  
10 and in the institutions of higher education of the state consistent  
11 with the intent and purpose of this article for each of the  
12 purposes for which the Legislature finds that technology is used  
13 in public schools and institutions of higher education as  
14 described in section one of this article and for any other  
15 purposes considered necessary by the state board and the higher  
16 education policy commission for using technology in the public  
17 schools and institutions of higher education to improve perfor-  
18 mance and progress;

19 (2) The strategy for allocating the resources available and  
20 developing the capacity necessary to achieve the purposes  
21 addressed in the plan. The strategy shall allow for reasonable  
22 flexibility for:

23 (A) County boards and regional education service agencies  
24 to receive assistance with the development and implementation  
25 of technological solutions designed to improve performance,  
26 enrich the curriculum and increase student access to high level  
27 courses;

28 (B) County boards, regional education service agencies and  
29 institutional boards of governors to implement technological  
30 solutions that address local priorities consistent with achieving

31 the major objectives set forth in the education technology  
32 strategic plan; and

33 (C) Using the most cost effective alternative allowable  
34 pursuant to section six of this article for expending funds for  
35 technology acquisition and implementation consistent with the  
36 goals of the plan;

37 (3) For public education, the strategy for using technology  
38 to maintain equity in the array and quality of educational  
39 offerings and professional qualifications among the counties  
40 notwithstanding circumstances of geography and population  
41 density;

42 (4) For public education, the strategy for developing and  
43 using the capacity of the public school system to implement,  
44 support and maintain technology in the public schools through  
45 the allocation of funds either directly or through contractual  
46 agreements with county boards and regional education service  
47 agencies for labor, materials and other costs associated with the  
48 installation, set-up, internet hook-up, wiring, repair and  
49 maintenance of technology in the public schools and state  
50 institutions of higher education;

51 (5) The strategy for ensuring that the capabilities and  
52 capacities of the technology infrastructure within the state and  
53 its various regions is adequate for acceptable performance of  
54 the technology being implemented in the public schools and the  
55 state institutions of higher education, for developing the  
56 necessary capabilities and capacities, or for pursuing alternative  
57 solutions;

58 (6) The strategy for maximizing student access to learning  
59 tools and resources at all times including before and after  
60 school or class, in the evenings, on weekends and holidays, and  
61 for public education, non instructional days, and during  
62 vacations for student use for homework, remedial work,

63 independent learning, career planning and adult basic educa-  
64 tion;

65 (7) The strategy for providing access to individualized  
66 instruction through computer-based technology, video and other  
67 technology-based instruction;

68 (8) The strategy for improving teaching and learning and  
69 the ability to meet individual students' needs to increase student  
70 achievement;

71 (9) The strategy for improving curriculum delivery to help  
72 meet the needs for educational equity across the state;

73 (10) The strategy for improving delivery of professional  
74 development;

75 (11) The strategy for improving the efficiency and produc-  
76 tivity of administrators;

77 (12) The strategy for encouraging development by the  
78 private sector and acquisition by districts of technologies and  
79 applications appropriate for education;

80 (13) The strategy for ensuring efficient and equitable use of  
81 technology at all levels from primary school through higher  
82 education, including vocational and adult education;

83 (14) The strategy for taking advantage of bulk purchasing  
84 abilities to the maximum extent feasible. This may include, but  
85 is not limited to:

86 (A) A method of recording all technology purchases across  
87 both the public education system and the higher education  
88 system;

89 (B) Combining the purchasing power of the public educa-  
90 tion system and the higher education system with the purchas-  
91 ing power of other state entities or all state entities; or

92 (C) A method of allowing public education and higher  
93 education to purchase from competitively bid contracts initiated  
94 through the southern regional education board educational  
95 technology cooperative and the American  
96 TelEdCommunications Alliance;

97 (15) A strategy for seeking funding through grants, gifts,  
98 donations or any other source for uses related to education  
99 technology; and

100 (16) A strategy for allowing any other flexibility that is  
101 determined to be needed for the effective use of technology in  
102 public education and higher education.

103 (b) Each strategy to be included in the education technology  
104 strategic plan pursuant to this section shall apply to public  
105 education, higher education or both, as appropriate. The  
106 determination of whether the strategy applies to public educa-  
107 tion, higher education or both shall be made by the education  
108 technology strategic plan advisory committee, the state board  
109 and the higher education policy commission.

110 (c) Nothing in this section may be construed to conflict  
111 with a state higher education institution's mission as set forth  
112 in its compact.

**§18-2J-5. State board and higher education policy commission  
approval and adoption.**

1 On or before the first day of November, two thousand four,  
2 and each year thereafter, the education technology strategic  
3 plan advisory committee shall submit the education technology  
4 strategic plan to the state board and the higher education policy

5 commission for approval and adoption. This time line also shall  
6 be in accordance with the federal E-rate discount program. If  
7 the state board, the higher education policy commission or both  
8 do not approve and adopt the plan, the state board, the higher  
9 education policy commission and the education technology  
10 strategic plan advisory committee shall collaborate in address-  
11 ing any objection, agree to a plan and then formally approve  
12 and adopt the plan agreed to. The procedure for collaboration  
13 shall be determined through agreement of the state board, the  
14 higher education policy commission and the education technol-  
15 ogy strategic plan advisory committee. The plan shall become  
16 effective the school year following the time of approval and  
17 adoption by both the state board and the higher education policy  
18 commission.

**§18-2J-6. Allocation and expenditure of appropriations.**

1 (a) The state board, regional education service agencies, the  
2 higher education policy commission and the state institutions of  
3 higher education shall allocate and expend appropriations for  
4 technology in the public schools or the state institutions of  
5 higher education, as appropriate, in accordance with the  
6 education technology strategic plan except that expenditures  
7 from grants which can only be used for certain purposes are not  
8 subject to this requirement. For public education, the expendi-  
9 tures shall be made directly, or through lease-purchase arrange-  
10 ments pursuant to the provisions of article three, chapter five-a  
11 of this code, or through contractual agreements or grants to  
12 county boards and regional education service agencies or any  
13 combination of the foregoing options as shall best implement  
14 the strategic plan in the most cost effective manner.

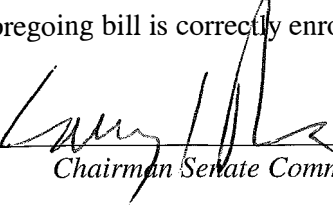
15 (b) Nothing in this section requires any specific level of  
16 appropriation by the Legislature.



**§18-2J-7. Report to the legislative oversight commission on education accountability.**

1       The state board and the higher education policy commis-  
2 sion shall report to the legislative oversight commission on  
3 education accountability annually as soon as practical following  
4 the annual adoption and approval of the education technology  
5 strategic plan. Additionally, as soon as practical following the  
6 annual adoption and approval of the education technology  
7 strategic plan, the state board and the higher education policy  
8 commission shall submit copies of the report to the joint  
9 committee on government and finance. The report shall  
10 summarize the expenditures and other related activities under-  
11 taken to achieve the objectives of the plan during the past fiscal  
12 year, all modifications made in the updated education technol-  
13 ogy strategic plan and any other matters considered important  
14 by the state board and the higher education policy commission  
15 to inform the Legislature on the state of education technology  
16 in the public schools and the institutions of higher education.

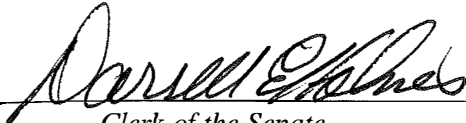
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

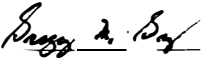
  
Chairman Senate Committee

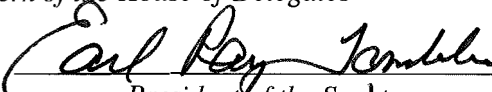
  
Chairman House Committee

Originating in the House.

In effect July 1, 2004.

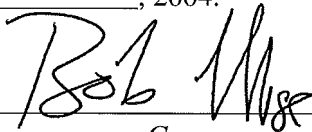
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 5th  
day of April, 2004.

  
Governor

PRESENTED TO THE  
GOVERNOR  
DATE 4-10-04  
TIME 4:35pm